



# PUBLIC NOTICE

Federal Communications Commission  
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DA 02-3074

Released: November 7, 2002

## DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF ESSEX COMMUNICATIONS, INC., d/b/a eLEC COMMUNICATIONS

### STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 02-345

On October 11, 2002, Essex Communications, Inc., d/b/a eLEC Communications ("ECI") and Essex Acquisition Corporation ("EAC"), filed an application pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, for Commission consent to the acquisition of ECI assets by EAC.<sup>1</sup>

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2) (ii) of the Commission's rules because: the proposed transaction will result in EAC having a market share in the interstate, interexchange market of less than ten percent; EAC would provide competitive telephone exchange services or exchange access services (if at all) in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and neither of the applicants is dominant with respect to any service.<sup>2</sup> EAC is also not a telecommunications provider.<sup>3</sup>

ECI is a New York corporation with offices at 543 Main St., New Rochelle, NY 10801. ECI is currently licensed to provide local and long distance telecommunications services in 43 states but only provides service in Colorado, Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and West Virginia. Upon consummation and receipt of state regulatory approvals, EAC will commence providing services in these states.

<sup>1</sup> The applicants have also filed an application for international section 214 authority, which will be processed separately. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications in connection with the proposed transaction.

<sup>2</sup> See 47 C.F.R. § 63.03(b)(2)(i)

<sup>3</sup> See 47 C.F.R. § 63.03(b)(1)(ii).

EAC is a Delaware corporation that is 100-percent owned by BiznessOnline.com, Inc., a Delaware corporation with offices located at 1720 Route 34, PO Box 1347, Wall, NJ 07719. EAC is currently not providing telecommunications services in any geographic area.

On September 2, 2002, the Applicants entered into a purchase agreement whereby ECI will transfer its assets and its authorization to provide local facilities based and resold interexchange telecommunications services. In exchange, Essex Acquisition Corporation will assume *certain* liabilities of ECI and manage ECI pursuant to an *interim consulting and funding* agreement until a closing occurs. Upon closing, which is intended to occur only after receipt of all necessary regulatory approvals, EAC shall acquire from ECI ownership of telecommunications assets, including but not limited to the state regulatory authorizations and certificates to provide local facilities based services. After the closing and after prior notice to ECI customers, EAC will provide these services to customers and ECI will cease any and all offering of these services.

Applicants state that this application is in the public interest because consumers will benefit from the availability of increased long distance telecommunications products and service options. Citing the “challenging market for competitive carriers, including for ECI and its customers,” applicants also state that this transaction will ensure ECI’s customers of uninterrupted service.

### **GENERAL INFORMATION**

The transfer of control application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission’s rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.<sup>4</sup> Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31<sup>st</sup> day after the date of this notice. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the **applicable** docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get

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<sup>4</sup> See 47 C.F.R. § 63.03(a).

filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov). and should include the following words in the body of the message. "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [twilson@fcc.gov](mailto:twilson@fcc.gov), and
- (3) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: [wdever@fcc.gov](mailto:wdever@fcc.gov); and
- (4) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A739, Washington, D.C. 20554; email: [iellis@fcc.gov](mailto:iellis@fcc.gov); and
- (5) Nandan Joshi, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: [nioshi@fcc.gov](mailto:nioshi@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail

[aualexint@aol.com](mailto:aualexint@aol.com).

For further information, please contact Tracey Wilson. at (202) 418-1394 or William Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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